

## NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 2. ADMINISTRATION

#### CHAPTER 10. DEPARTMENT OF ADMINISTRATION RISK MANAGEMENT SECTION

[R06-430]

#### PREAMBLE

- 1. Sections Affected**  
R2-10-207
- Rulemaking Action**  
Amend
- 2. The specific statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rule is implementing (specific):**  
Authorizing statutes: A.R.S. § 41-703 (3)  
Implementing statutes: A.R.S. §§ 41-621, 41-623(A)
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**  
Notice of Rulemaking Docket Opening: 10 A.A.R. 3242, September 8, 2006
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Julie Cruse, Administrative Manager, Risk Management Section  
Address: Arizona Department of Administration  
100 N. 15th Ave., 3rd Floor, Suite 301  
Phoenix, AZ 85007  
Telephone: (602) 542-1492  
Fax: (602) 542-1473  
Name: Rob Smook, Rules Administrator  
Address: Arizona Department of Administration  
1501 W. Madison  
Phoenix, AZ 85007  
Telephone: (602) 542-6161  
Fax: (602) 542-3125
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**  
The purpose of this rulemaking is to address the issues identified in the previous five-year review report approved by the Governor's Regulatory Review Council. The subject matter of R2-10-207 establishes the basis for the development of effective loss prevention programs within each state agency. The rule requires each agency to include certain specific elements and to develop procedures for investigating and reporting accidents, maintaining records and preparing emergency plans for reasonably foreseeable perils. In addition, it clarifies and removes obsolete language and references.
- 6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**  
The agency did not utilize a study for evaluating or justifying the rulemaking.

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**7. A showing of good cause why the rule is necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

**A. Identification of Rule**

Title 2, Chapter 10, Article 2, "Loss Prevention"

**B. Background and Summary**

The proposed rule amendment for R2-10-207(8) updates the language which references the Fire Protection Manual 1990 edition as this document is obsolete. Subsection 12 has been modified completely. The intent of the change is to guide the agencies and make recommendations for improved safety, security and loss prevention in the fleet program area. The current language does not detail the specific program areas that are necessary to develop effective loss prevention elements at each state agency. The rule is to assist the agencies in establishing specific program elements. The goal of this rule revision is to provide specific direction to the agencies to assist in developing an effective agency specific fleet safety program.

**C. Entities Directly Impacted**

All state agencies could be impacted by these changes. Small business and consumers are not impacted by these rules.

**D. Potential Costs and Benefits**

Reduction of losses.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Julie Cruse, Administrative Manager

Address: Arizona Department of Administration, Risk Management Section  
100 N. 15th Ave., 3rd Floor, Suite 301  
Phoenix, AZ 85007

Telephone: (602) 542-1492

Fax: (602) 542-1473

**10. The time, place and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

The Department has scheduled the following oral proceeding to obtain oral comment on the proposed rulemaking for A.A.C. 10, Article 2:

**Date:** December 18th, 2006

**Time:** 9:00 a.m. – 11:00 a.m.

**Location:** 100 N. 15th Ave., 3rd Floor, Room 300  
Phoenix, AZ 85007

**Nature:** Oral Proceeding

Written comments on the proposed rulemaking or the preliminary economic, small business, and consumer impact summary may be submitted to the individual listed in item #9 until the close of record at 5:00 p.m. on December 22, 2006.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

**12. Any material incorporated by reference and its location in the rule:**

None

**13. The full text of the rule follows:**

**TITLE 2. ADMINISTRATION**

**CHAPTER 10. DEPARTMENT OF ADMINISTRATION  
RISK MANAGEMENT SECTION**

**ARTICLE 2. LOSS PREVENTION**

Section

R2-10-207. Agency Loss Prevention Program Elements

ARTICLE 2. LOSS PREVENTION

**R2-10-207. Agency Loss Prevention Program Elements**

Each agency loss prevention committee shall develop, implement, and monitor the following loss prevention program elements of an occupational health and safety program (as applicable to their agency):

1. The agency loss prevention policy statement;
2. New employee and continuous in-service training programs that include:
  - a. Safety and loss prevention education regarding property protection, liability exposure, and workplace safety;
  - b. Agency-specific safety training regarding emergency plans, actions, and first-aid; and
  - c. Job-specific safety training to employees performing tasks where:
    - i. Frequent or severe accidents have occurred; or
    - ii. There is a potential for frequent or severe accidents.
3. Documentation and recordkeeping of employee training;
4. An emergency plan for each agency location that establishes procedures to follow in the event of serious injury, fire, or other emergency that can be reasonably foreseen at the specific agency location. The emergency plan shall:
  - a. Designate an employee responsible for formulating, implementing, testing, and maintaining the emergency plan;
  - b. Contain procedures for notification of emergency response personnel and safe evacuation of personnel from the location, including an evacuation diagram that shall be visibly posted throughout each location;
  - c. Contain procedures for obtaining first-aid, medical treatment, and emergency transportation in the event of serious injury; and
  - d. Require that the plan be periodically tested and evaluated and identified deficiencies corrected;
5. Procedures for scheduled safety inspections of buildings, grounds, equipment, and machinery. An agency shall document the results of each inspection and forward notice of any deficiencies to the loss prevention coordinator for corrective action. The agency loss prevention committee or coordinator shall follow-up on inspection recommendations to ensure action is taken to remedy a noted deficiency. The agency loss prevention committee or coordinator shall bring an uncorrected deficiency to the attention of the agency head;
6. Procedures for accident and incident investigations:
  - a. An agency shall develop procedures for reporting an accident or incident involving personnel, property, automobile, liability, industrial injury, environmental damage, and a mishap or near miss to the agency's loss prevention coordinator or loss prevention committee. The loss prevention coordinator and loss prevention committee shall review the accident and incident reports and identify the corrective action necessary to prevent recurrence;
  - b. Procedures for reporting, investigating, and recording maintenance of a work-related accident or incident shall include:
    - i. Timely and accurate reporting of each work-related accident or incident;
    - ii. Investigation of each accident or incident to gather pertinent information, determine cause, and recommend a solution to prevent recurrence of a similar accident or incident;
    - iii. Compiling, analyzing, and evaluating all data derived from the investigation to determine the frequency, severity, and location of an accident or incident and communicating the information to appropriate agency personnel; and
    - iv. Maintaining records of employee injury under A.A.C. R20-5-631 through R20-5-636;
7. A maintenance program for state-owned vehicles, equipment, and grounds under the control of that agency that includes:
  - a. A preventive maintenance program with a written schedule of routine inspection, adjustment, cleaning, lubrication, and testing of equipment including boilers and machinery, fire protection, security and emergency equipment, and motor vehicles;
  - b. Safety procedures such as "lock-out-tagout" and "buddy procedures" for jobs subject to a serious accident such as those involving working in a confined space, operating dangerous equipment and machinery, and working on electrical equipment; and
  - c. Personal protective equipment for a specific job or area including training on proper fit, use, care, maintenance, inspection, cleaning, and storage;
8. A fire protection program that ~~meets the standards described in the Arizona State Fire Code contained in the Fire Protection Manual 1990 edition which is incorporated by reference and on file with the Department and the Office of the Secretary of State; complies with A.A.C. R4-36-201, 301-311. Arizona State Fire Code. This program shall incorporate best practices and standards to protect state of Arizona employees, general public and resources entrusted to the agency.~~
9. Systems and procedures to protect the personal security of each employee and prevent loss of or damage to state

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- property, including:
- a. Security escorts, exterior lighting, identification badges, and electronic access systems;
  - b. Labeling systems, inventory control procedures, property removal procedures, and key control systems; and
  - c. Building and ground security systems, alarms systems, electronic surveillance, perimeter fencing, and security patrol services.
10. A land, facility, equipment, or process environmental protection program that includes:
- a. Procedures to ensure compliance with all applicable local, state, and federal environmental laws;
  - b. Identification of equipment, processes, and practices that may cause water pollution, air pollution, or land and property contamination;
  - c. Procedures to prevent or control emissions and discharges in excess of local, state, and federal laws and rules; and
  - d. Procedures to investigate, report, and remediate any discharge or contamination in excess of local, state, or federal laws and rules;
11. An industrial hygiene program that encompasses an existing or potential health hazard within an agency, or that agency personnel may be exposed to during the course of work. The program shall include a documented survey of agency facilities and work practices to identify areas of concern such as noise, air contamination, ergonomic factors, lighting and confined spaces. The program shall include procedures to notify employees of health hazards, medical monitoring when applicable, and personal protective equipment requirements including training, fit testing, and care. The industrial hygiene program shall include the following program elements as applicable:
- a. Hazard communication;
  - b. Laboratory safety (Chemical Hygiene Plan);
  - c. Hearing conservation;
  - d. Confined space entry;
  - e. Handling and disposing of hazardous waste;
  - f. Back protection;
  - g. Ergonomics;
  - h. Asbestos management;
  - i. Building air quality;
  - j. Chemical exposure assessment;
  - k. Personal protective equipment;
  - l. Respiratory protection;
  - m. Bloodborne pathogen protection; and
  - n. Tuberculosis protection;
- ~~12. A motor fleet safety program for an employee operating a state or other vehicle on state business that includes:~~
- ~~a. Standards to ensure that an employee who drives on state business is capable of operating a vehicle in a safe manner and is currently licensed to operate a motor vehicle in Arizona;~~
  - ~~b. Instruction in safe vehicle operation and defensive driving techniques;~~
  - ~~c. Mandatory use of seat belts;~~
  - ~~d. A log of the maintenance on each state vehicle.~~
  - ~~e. Review of a vehicular accident by the agency loss prevention committee or by a committee appointed by the agency head to review vehicular accidents and recommend corrective action to prevent recurrence;~~
  - ~~f. Review of the driving record of any agency employee who is authorized to drive state vehicles or other vehicles on state business. Each employee operating a state or other vehicle on state business shall upon request, provide the agency loss prevention coordinator, personnel representative, supervisor, fleet manager, or RM with the employee's name, date of birth, driver's license number, and expiration date, and;~~
  - ~~g. A training program for any driver of a passenger van designed for occupancy of 8 to 15 people. The program shall include classroom instruction, behind-the-wheel instruction (on the road or on a closed course), and a certificate of completion to be filed with the agency's fleet management.~~
12. A motor fleet safety program that includes all of the following program elements:
- a. Standards: Each agency head shall develop standards to ensure that an authorized driver who drives on state business is capable of operating a motor vehicle in a safe manner. At a minimum, the program shall include the following standards:
    - i. Statutorily mandated use of seat belts by all occupants.
    - ii. An authorized driver shall possess a valid driver's license of the appropriate class with any required endorsement(s).
    - iii. Authorized drivers who operate a personally owned vehicle on state business shall maintain the statutorily required liability insurance.
  - b. Safety Training: The agency shall develop and implement programs and procedures to ensure that drivers authorized to operate a motor vehicle attend defensive driving training no later than 3 months from initial hire date or

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appointment to a position requiring the operation of a motor vehicle. All other authorized drivers shall attend defensive driving training within twelve (12) months of the effective date of this rule. ADOA Risk Management may provide Defensive Driver/Van Safety training assistance or coordination upon request of the agency or the agency may elect to develop and implement agency specific training. An agency specific program, or any other program utilized by the agency, shall meet or exceed the following minimum course content:

- i. Defensive driving techniques,
- ii. Traffic and vehicle regulations,
- iii. Driver and passenger restraints,
- iv. Inclement weather and night vision driving hazards,
- v. Dealing with emergencies,
- vi. Alcohol and drug use hazards and regulations,
- vii. Vehicle insurance and financial responsibility, and
- viii. Motor Vehicle Record (MVR) Checks.

The agency head shall ensure that agency staff maintains records regarding initial and subsequent refresher training that reflect: topics trained, date of training, instructor information, length of training, location of training, participant's name, and job title.

Motor Vehicle Refresher Training: The agency head shall designate a responsible party to ensure that refresher training be conducted at least every 4 years.

- c. 15-Passenger Van and Specialty Vehicle Training: The agency head shall include in the driver safety training elements a component for drivers of passenger vans that are designed, modified, or otherwise configured for occupancy of more than 8 and no more than 15 persons (including the driver) or transport of cargo. The training component for vans shall include: classroom instruction, behind the wheel instruction (on the road, on a closed course or using a driving simulator) and a certificate or card of completion. For motorized specialty vehicles or specialty mobile equipment, the agency head shall ensure that instruction is conducted before initial operation of the vehicle or equipment. The instruction shall be based on nationally recognized industry standards and training timelines or manufacturer's operator instructions. For the purpose of this Section, motorized "specialty vehicles" or "specialty mobile equipment" are designed for the transport of people or cargo, but are not licensed or intended for use on public roadways.
- d. Vehicle Maintenance and Inspections: The agency head shall develop and implement a preventive maintenance and inspection element for fleet vehicles. At a minimum, the agency head shall ensure that maintenance and inspection staff use preventive maintenance schedules and repair records. Vehicle inspections shall comply with all state and federal inspection standards for the vehicle(s) being inspected. Agencies shall ensure that all motor vehicles utilized for state business functions are inspected and maintained in a safe and operational condition whether used on public roads, highways or for non-roadway use.
- e. Vehicle Incident Review: The agency head shall ensure that the motor fleet safety program element includes a vehicle incident review. A committee shall conduct a review of each incident that involves collision or damage to determine the cause and preventability of the incident, and then recommend corrective action to prevent recurrence. The committee shall forward findings to the agency head if the committee determines the authorized driver failed to take reasonable action to avoid the collision or damage. The driver shall attend refresher training within 3 months from the date of the agency committee's determination. Based on the circumstances, the agency head may direct additional remedial action. An authorized driver involved in any motor vehicle collision on state business shall immediately notify his/her supervisor.
- f. Driving Record Review: The agency shall develop and implement procedures for the review of an authorized driver's record maintained by the Motor Vehicle Division of the Arizona Department of Transportation. Each agency shall establish a schedule for reviewing driving records based on agency specific exposures and RM claims history data. The agency head shall ensure that the driving record of each authorized driver is reviewed at least annually. The review shall cover the most recent 39-month period. For driving records reviews, each person authorized to drive on state business shall upon request provide, name, driver license number, expiration date and date of birth. A copy of a driving record release form is available upon request from Risk Management. Authorized drivers shall immediately notify their section manager of any license suspension, revocation, or restriction placed on their driver's license or privilege to drive a motor vehicle by the Motor Vehicle Division of the Arizona Department of Transportation. If the driver's license of an authorized driver is suspended or revoked, authorization to drive on state business is suspended on the date of driver's license suspension or revocation and remains suspended until the date of driver's license reinstatement. If a review of a driving record reveals one or more convictions totaling six or more points for the 39-month period, the appropriate agency management shall be notified. The notification shall include a recommendation that the agency head requires the driver to attend driving safety training or take similar action designed to improve the person's driving skills. For the purposes of this Section, RM considers successful completion of MVD Traffic Survival School within the previous 12 months to be similar remedial action.

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- g. Driving Records Review Guidelines and Criteria: The following criteria should be followed when evaluating a 39-month driving record and recommending remedial action by the agency:
- i. 5 or fewer points = Acceptable record. Continue annual driving record and driver insurance status checks.
  - ii. 6 to 7 points = Conditional record: Conduct frequent driving record and driver insurance status checks at least twice a year. Recommend Defensive Driver training or similar remedial action designed to improve driving skill.
  - iii. 8 or more points = High-risk record: Request that the agency head limit driving on state business. A written, limited authorization may be granted by an agency head if the limited authorization provides the conditions and the duration of the authorization to drive. An agency head shall not circumvent an order or action of the Motor Vehicle Division or any court.
13. A safety and security standard for a construction site where state employees work, that include;
- a. Site-specific safety rules and procedures for the type of risks expected to be encountered on the site;
  - b. Routine inspection of construction sites to ensure compliance with local, state, and federal safety laws and rules;
  - c. Training of each employee in safe practices and procedures;
  - d. Availability of first-aid, medical, and emergency equipment and services at the construction site, including arrangements for emergency transportation;
  - e. Procedures to prevent theft, vandalism, and other losses at the construction site; and
  - f. Periodic testing and evaluation of the plan and correction of identified deficiencies.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 46. BOARD OF APPRAISAL**

[R06-426]

**PREAMBLE**

**1. Sections Affected**

R4-46-101  
R4-46-201  
R4-46-202  
R4-46-203  
R4-46-204  
R4-46-205  
R4-46-206  
R4-46-207  
R4-46-208  
R4-46-209  
R4-46-210

**Rulemaking Action**

Amend  
Amend  
Amend  
Amend  
Amend  
Amend  
Amend  
Amend  
Repeal  
Amend  
Repeal

**2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statutes: A.R.S. §§ 32-3605(A), 32-3605(B), 32-3612, 32-3613, 32-3614, 32-3615, 32-3619, 32-3621, 32-3625

Implementing statutes: A.R.S. §§ 32-3605(B)(2), 32-3605(B)(3), 32-3605(B)(4), 32-3605(B)(5), 32-3605(B)(6), 32-3605(B)(8), 32-3625(D), 32-3625(E)

**3. A list of all previous notices appearing in the Register addressing the proposed rules:**

Notice of Rulemaking Docket Opening: 12 A.A.R. 4246, November 17, 2006 (*in this issue*)

**4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Deborah G. Pearson, Executive Director  
Address: 1400 W. Washington, Suite 360  
Phoenix, AZ 85007  
Telephone: (602) 542-1539, Ext. 4  
Fax: (602) 542-1598  
E-mail: deborah.pearson@appraisal.state.az.us

**5. An explanation of the rules, including the agency's reasons for initiating the rules:**

**Notices of Proposed Rulemaking**

The amendments are to comply with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, which requires state licensing boards to recognize and ensure that state licensed and certified appraisers meet the minimum criteria issued by the Appraiser Qualifications Board of The Appraisal Foundation, and A.R.S. § 32-3605(B)(2) and A.R.S. § 32-3605(B)(3), which require the Board to adopt criteria for licensing and certification of appraisers that at a minimum are equal to the minimum criteria for licensing adopted by the Appraiser Qualifications Board. The amendments will define and incorporate by reference the minimum criteria for the licensed real property appraiser classification, the certified residential real property appraiser classification, and the certified general real property appraiser classification established by either *The Real Property Appraiser Qualification Criteria and Interpretations of the Criteria adopted February 16, 1994 effective January 1, 1998, All Interpretations and Supplementary Information as of January 1, 2001, and Appendix 1, Criteria Revisions effective January 1, 2003* ("1998 Criteria") or *The Real Property Appraiser Qualification Criteria adopted January 1, 2003, All Interpretations and Supplementary Information as of November 1, 2005, and Appendix, Real Property Qualifications Effective January 1, 2008* ("2008 Criteria") based on when a particular component is completed. The components of the 1998 Criteria and the 2008 Criteria are education, experience and examination. The major changes between the 1998 Criteria and the 2008 Criteria are:

A. The Appraiser Qualifications Board (AQB) is developing new Uniform State Appraiser Examinations, which will be implemented concurrently with the effective date of the 2008 Criteria.

B. Although the 2008 Criteria experience for Licensed Residential Appraisers will be changed to require 2000 hours in no fewer than 12 months, the Board will not be modifying its more stringent rule requiring 2000 hours in no fewer than 18 months.

C. The most significant changes in the 2008 Criteria relate to qualifying education. The changes fall into the following categories:

- (1) There are college-level course requirements for the Certified Residential and Certified General classifications;
- (2) The required number of classroom hours in appraisal education has increased significantly in all three classifications; and
- (3) There are minimum classroom hours of coverage requirements for specific topic areas, which are known as modules.

The following chart summarizes the qualifying education changes:

<b><u>Classification</u></b>	<b><u>1998 Hours Requirement</u></b>	<b><u>2008 Hours Requirement</u></b>	<b><u>College-Level Course Requirements</u></b>
Licensed Residential	90	150	None
Certified Residential	120	200	Associate degree or higher. In lieu of the required degree 21 semester credit hours covering the following subject matter courses: English Composition; Principles of Economics (Micro or Macro); Finance; Algebra, Geometry or higher mathematics; Statistics; Introduction to Computers—Word Processing/Spreadsheets; and Business or Real Estate Law
Certified General	180	300	Bachelors degree or higher. In lieu of the required degree 30 semester credit hours covering the following subject matter courses: English Composition; Micro Economics; Macro Economics; higher mathematics; Statistics; Introduction to Computers—Word Processing/Spreadsheets; Business or Real Estate Law; and 2 elective courses in accounting, geography; ag-economics; business management; or real estate

The amendments propose a "Segmented" Scenario as the implementation option pursuant to the 2008 Criteria as follows: An applicant shall meet the Criteria in effect at the time he completes a particular component through and including October 31, 2008. An applicant shall meet either the 1998 Criteria or the 2008 Criteria for any completed component prior to January 1, 2008. An applicant shall meet the 2008 Criteria for any component completed on or after January 1, 2008, through and including October 31, 2008. On and after November 1, 2008, an applicant shall meet the 2008 Criteria for all components regardless of when the component was completed.

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The amendments propose to delete duplicative language in the rules that appears in the Board's statutes or in the 2008 Criteria.

The amendments propose to delete the requirement that an applicant complete at least three hours of course work covering the Board's rules and statutes.

The amendments propose to add a requirement that the 15-hour National USPAP course must be taken within two years preceding the date of application.

Pursuant to the 2008 Criteria the amendments propose to revise the definition of "Supervising Appraiser" to delete licensed residential appraiser.

The amendments propose to clean up unnecessary language.

**6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

None

**7. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business and consumer impact:**

The rules are being amended to incorporate by reference the minimum criteria for the licensed real property appraiser classification, the certified residential real property appraiser classification, and the certified general real property appraiser classification established by either *The Real Property Appraiser Qualification Criteria and Interpretations of the Criteria adopted February 16, 1994 effective January 1, 1998, All Interpretations and Supplementary Information as of January 1, 2001, and Appendix 1, Criteria Revisions effective January 1, 2003* ("1998 Criteria") or *The Real Property Appraiser Qualification Criteria adopted January 1, 2003, All Interpretations and Supplementary Information as of November 1, 2005, and Appendix, Real Property Qualifications Effective January 1, 2008* ("2008 Criteria") based on when a particular component (education, experience or examination) is completed. Consistent with the incorporated material, the proposed amendments revise the definition of "Supervising Appraiser" to eliminate licensed real estate appraiser. The rules establish more stringent criteria limiting the time in which an applicant may take the qualifying 15-hour National USPAP course. The amendments propose to clean up duplicative and unnecessary language. The major economic impact of the rules will be the indirect beneficial effect for the public and regulated community due to specific interpretation of the criteria. The cost, if any, to the regulated community, trainees and course providers will be minimal. There will be no cost to the public. The Board will bear the cost of incorporating and enforcing the rules.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Deborah G. Pearson, Executive Director

Address: 1400 W. Washington, Suite 360  
Phoenix, AZ 85007

Telephone: (602) 542-1539, Ext. 4

Fax: (602) 542-1598

E-mail: deborah.pearson@appraisal.state.az.us

**10. The time, place and nature of the proceedings for the making, amendment or repeal of the rules, or, if no proceeding is scheduled, where, when and how persons may request an oral proceeding on the proposed rules:**

Date: January 18, 2007

Time: 9:00 a.m.

Location: 1400 W. Washington  
Basement Conference Room B-2  
Phoenix, AZ

Nature: The Board will hold an open meeting to hear opinions and suggestions, and to adopt, amend or repeal the rules. The Agenda for this Board meeting will be available to the public 24 hours before the meeting. It may be obtained from the Board's web site at [www.appraisal.state.az.us](http://www.appraisal.state.az.us) under Meetings or by contacting the Board office at (602) 542-1539, Extension 4. In addition, written comment will be accepted at the Board office, 1400 West Washington, Suite 360, Phoenix, Arizona 85007 between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday through January 17, 2007.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rules or class of**



**rules:**

None

**12. Incorporation by reference and their location in the rules:**

*The Real Property Appraiser Qualification Criteria and Interpretations of the Criteria adopted February 16, 1994, effective January 1, 1998, All Interpretations and Supplementary Information as of January 1, 2002, and Appendix I, Criteria Revisions effective January 1, 2003, and ("1998 Criteria") and The Real Property Appraiser Qualification Criteria adopted January 1, 2003, All Interpretations and Supplementary Information as of November 1, 2005, and Appendix, Real Property Qualifications Effective January 1, 2008 ("2008 Criteria") adopted by the Appraiser Qualifications Board (AQB). The location in the rules is R4-46-201 and R4-46-207.*

**13. The full text of the rules follows:**

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 46. BOARD OF APPRAISAL**

**ARTICLE 1. GENERAL PROVISIONS**

Section

R4-46-101. Definitions

**ARTICLE 2. LICENSING AND CERTIFICATION**

Section

R4-46-201. Appraiser Qualification Criteria  
R4-46-202. Application for License or Certificate  
R4-46-203. Procedures for Processing Applications  
R4-46-204. Appraiser Examinations  
R4-46-205. Issuance of a License or Certificate  
R4-46-206. Hearing on Denial of a License or Certificate  
R4-46-207. Renewal of a License or Certificate  
R4-46-208. ~~Renewal of an Expired License or Certificate~~ Repealed  
R4-46-209. Replacement License or Certificate  
R4-46-210. ~~Change of Address~~ Repealed

**ARTICLE 1. GENERAL PROVISIONS**

**R4-46-101. Definitions**

In these rules, unless the context otherwise requires:

"Arizona or State Certified General Appraiser". No change

"Arizona or State Certified Residential Appraiser". No change

"Arizona or State Licensed Appraiser". No change

"Appraisal Foundation". No change

"Appraiser". No change

"Board". No change

"Board counsel". No change

"Board staff". No change

"Complaint". No change

"Consent agreement". No change

"Consulting assignment". No change

"Conviction". No change

"Course provider". No change

"Direct supervision" means that a supervising appraiser is physically present to direct and oversee the production of each appraisal assignment. ~~This definition is effective January 1, 2007, consistent with R4-46-201(G).~~

"Disciplinary action". No change

"Dismissal". No change

"Distance education". No change

"Due diligence". No change

"Formal complaint". No change

"Formal hearing". No change

“Informal hearing”. No change  
“Informational interview”. No change  
“Initial review”. No change  
“Investigation”. No change  
“Investigator”. No change  
“Jurisdictional criteria”. No change  
“Letter of concern”. No change  
“Letter of due diligence”. No change  
“Letter of remedial action”. No change  
“Mentor”. No change  
“Order”. No change  
“Party”. No change  
“Practicing appraiser” means a state licensed or certified appraiser who is actively engaged in performing appraisal assignments. ~~This definition is effective January 1, 2007, consistent with R4-46-201(G).~~  
“Probation”. No change  
“Property tax agent”. No change  
“Remedial action”. No change  
“Respondent”. No change  
“Rules”. No change  
“Summary suspension”. No change  
“Supervising appraiser” means a state ~~licensed or~~ certified appraiser in good standing with a minimum of four years of experience within the last four years as a practicing appraiser who engages in direct supervision of a trainee pursuing a state license or certificate and provides training for work included within the supervising appraiser’s classification. ~~This definition is effective January 1, 2007, consistent with R4-46-201(G).~~  
“Trainee” means an individual who is being taught to become a state licensed or certified appraiser under the direct supervision of a supervising appraiser. ~~This definition is effective January 1, 2007, consistent with R4-46-201(G).~~  
“USPAP”. No change  
“Workfile”. No change

## ARTICLE 2. LICENSING AND CERTIFICATION

### R4-46-201. Appraiser Qualification Criteria

- A. Except as provided in subsections (B), (C), ~~and (D), (E), and (F)~~, an applicant for the applicable classification of license or certificate ~~should~~ shall meet that classification’s criteria; established by the Appraiser Qualifications Board (AQB); in either The Real Property Appraiser Qualification Criteria and Interpretations of the Criteria adopted February 16, 1994 effective January 1, 1998, All Interpretations and Supplementary Information as of January 1, 2002, and Appendix I, Criteria Revisions effective January 1, 2003, ~~(“1998 Criteria”), or The Real Property Appraiser Qualification Criteria Adopted January 1, 2003. All Interpretations And Supplementary Information As Of November 1, 2005. And Appendix, Real Property Qualifications Effective January 1, 2008 (“2008 Criteria”), which are incorporated by reference and on file with the Board, as follows:~~
1. The requirements are divided into three components: education, experience and examination. An applicant shall meet the criteria in effect at the time he completes a particular component through and including October 31, 2008.
  2. An applicant shall meet either the 1998 Criteria or the 2008 Criteria for any component completed prior to January 1, 2008.
  3. An applicant shall meet the 2008 Criteria for any component completed on or after January 1, 2008, through and including October 31, 2008.
  4. On and after November 1, 2008, an applicant shall meet the 2008 Criteria for all components, regardless of when the component was completed. Both the 1998 Criteria and the 2008 Criteria are incorporated by reference and are on file with the Board. These incorporated material criteria include no future additions or amendments. A copy of the incorporated material criteria may be obtained from the Board or The Appraisal Foundation.
- B. ~~The incorporated material in subsection (A) does not govern an appraiser’s scope of practice. The scope of practice for each classification of license or certificate is provided in A.R.S. § 32-3612(A). The incorporated material in subsection (A) does not govern the minimum amount of experience, measured in hours or years, necessary for certification. The minimum experience required for certification is provided in A.R.S. § 32-3615(A).~~
- C. ~~An applicant for any classification of a license or certificate shall complete at least three hours of course work covering A.R.S. Title 32, Chapter 36 and these rules.~~
- DB.** Regardless of whether a transaction is federally related:
1. A State Licensed Residential Appraiser is limited to the scope of practice in A.R.S. § 32-3612(A)(3), and
  2. A State Certified Residential Appraiser is limited to the scope of practice in A.R.S. § 32-3612(A)(2).

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- ~~EC.~~ Notwithstanding the criteria incorporated by reference in subsection (A),
- ~~1. The American Council on Education's Program on Noncollegiate Sponsored Instruction (ACE/Credit Program) is not an approved organization for distance education course reviews,~~
  - ~~21. An applicant shall not obtain more than 75% of required qualifying education through distance education, and~~
  - ~~32. An applicant shall not obtain the 15-hour National USPAP Course, or its equivalent, approved through the AQB Course Approval Program, through distance education; and~~
  3. Qualifying education credit may be obtained at any time before the date of application, except the 15-hour National USPAP Course or its AQB approved equivalent must be obtained within two years preceding the date of application.
- ~~FD.~~ Notwithstanding the criteria incorporated by reference in subsection (A), there is no Trainee Real Property Appraiser Classification.
1. A supervising appraiser shall instruct and directly supervise a trainee for any classification of license or certificate in the entire preparation of each appraisal. The supervising appraiser shall approve and sign all final appraisal documents. To demonstrate responsibility for the instruction, guidance, and direct supervision of the trainee, the supervising appraiser shall:
    - a. Sign the appraisal report and certify the report is in compliance with the Uniform Standards of Professional Appraisal Practice,
    - b. Personally supervise the entire physical inspection of each appraised property with the trainee, and
    - c. Review and sign each trainee appraisal report.
  2. A trainee may have more than one supervising appraiser, but a supervising appraiser shall not supervise more than three trainees at any one time. A trainee shall maintain an appraisal log for each supervising appraiser and, at a minimum, include the following in the log for each appraisal:
    - a. Type of property,
    - b. Date of report,
    - c. Property description,
    - d. Description of work performed by the trainee and scope of review and supervision by the supervising appraiser,
    - e. Number of actual work hours by the trainee on the assignment, and
    - f. The signature and state license or certificate number of the supervising appraiser.
  3. A supervising appraiser and trainee shall work in the same geographic area, and in no event shall the supervising appraiser and trainee work in different states.
  4. A supervising appraiser shall provide to the Board in writing the name and address of each trainee within 10 days of engagement, and notify the Board in writing immediately upon termination of the engagement. A state licensed or certified appraiser is not eligible to be a supervising appraiser unless the appraiser's license or certificate is in good standing and the appraiser has not been subject to license or certificate suspension, probation, or mentorship within the last two years.

~~G. Subsection (F) is effective January 1, 2007.~~

**R4-46-202. Application for License or Certificate**

- A. An applicant for a state certificate or license shall submit a completed application accompanied by the required application fee. Once the application has been filed, fees are ~~non-refundable~~ nonrefundable, unless A.R.S. § 41-1077 is applicable.
- B. To be eligible for a license or certificate, an applicant shall:
1. Meet the qualification criteria contained in A.R.S. Title 32, Chapter 36, Article 2 and these rules;
  2. Achieve a passing score on the applicable examination required by R4-46-204(D), unless exempted under A.R.S. § 32-3626;
  3. Pay all required application and examination fees;
  4. Pay the biennial ~~federal~~ national registry fee; ~~and~~
  - ~~5. Comply with the requirements of A.R.S. § 32-3611.~~
- C. In addition to the requirements listed in subsection (B), an applicant for licensure shall demonstrate 2,000 hours of experience earned in not less than 18 months.
- D. An applicant shall meet all requirements for a license or certificate within one year of filing the application or the applicant's file will be closed and the applicant shall reapply, meeting the requirements of R4-46-202(B). The Board shall notify an applicant whose application has been closed by certified mail or personal service at the applicant's last known address of record. Notice is complete upon deposit in the U.S. mail or by service as permitted under the Arizona Rules of Civil Procedure.

**R4-46-203. Procedures for Processing Applications**

- A. To comply with A.R.S. Title 41, Chapter 6, Article 7.1, the Board establishes the following time-frames for processing license and certificate applications, including renewal applications:
1. The Board shall notify the applicant within 45 days of receipt of the application that it is either administratively com-

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plete or incomplete. If the application is incomplete, the notice shall specify what information is missing.

2. The Board shall not substantively review an application until the applicant has fully complied with the requirements of ~~R4-46-202~~ R4-46-202(A). The Board shall render a final decision not later than 45 days after the applicant successfully completes all requirements of ~~R4-46-202~~ R4-46-202(A).
3. Although the applicant may have up to one year to comply with requirements of R4-46-202, the overall time-frame for Board action is 90 days, 45 days for administrative completeness review and 45 days for substantive review.

**B.** If the Board denies a license, the Board shall send the applicant written notice explaining:

1. The reason for denial, with citations to supporting statutes or rules;
2. The applicant's right to seek a hearing to challenge the denial; and
3. The time periods for appealing the denial.

**R4-46-204. Appraiser Examinations**

**A.** ~~The Board shall not allow an applicant to schedule an examination until the applicant has completed all of the prerequisite education requirements. An applicant may schedule an examination once he has completed the experience and education components specified in R4-46-201.~~

**B.** ~~If the test provider does not allow for a test on demand, an applicant shall file an application to take an examination at least 45 days before the examination date.~~

**C.** ~~Rescheduling; excused absence; forfeiture~~

1. ~~Except as provided in subsections (C)(2) and (3), the Board shall not provide an applicant scheduled for an examination date with a later examination date unless the applicant files a new application and pays a reexamination fee.~~
2. ~~The Board may grant an excused absence from a scheduled examination if the applicant provides evidence satisfactory to the Board that the absence was the direct result of an emergency situation or condition that was beyond the applicant's control and that could not have been reasonably foreseen by the applicant. An applicant shall promptly make a request for an excused absence in writing and support the request with documentation verifying the reason for the absence. The Board shall deny a request for an excused absence received more than 15 days after the examination date unless the applicant was unable to file a timely request due to the same circumstances that prevented the applicant from taking the examination.~~
3. ~~An applicant may request that the applicant's examination date be rescheduled if the request is made at least 15 days before the originally scheduled examination date.~~

**DB.** ~~Subject Matter. An applicant shall take an examination for the applicable classification of license or certificate that covers the subject matter in the real property appraiser examination for the applicable classification endorsed by the Appraiser Qualifications Board. successfully complete the Appraiser Qualifications Board endorsed uniform state appraiser examination or its equivalent for the applicable classification approved by the Board.~~

**EC.** ~~Reexamination. An applicant for a license or certificate who fails to pass an examination or fails to appear for a scheduled examination may schedule another examination by filing a new examination application and paying the reexamination examination fee.~~

**R4-46-205. Issuance of a License or Certificate**

An applicant who has met the appraiser qualification criteria prescribed in ~~R4-46-202(B)~~, ~~achieved a passing score on the applicable examination, and paid the application and biennial federal registry fees R4-46-202~~, shall be issued a license or certificate which entitles the applicant to practice as an ~~Appraiser~~ appraiser for the term of the license or certificate.

**R4-46-206. Hearing on Denial of a License or Certificate**

~~Pursuant to A.R.S. § 41-1092.03, any~~ Any applicant denied a license or certificate by the Board may file a written request for hearing, ~~within 30 days after issuance of the notice of denial, pursuant to A.R.S. § 41-1092.03.~~ Any hearing shall be conducted under the formal hearing procedures prescribed in Article 3 of these rules; A.R.S. Title 41, Chapter 6, Article 10; and 2 A.A.C. 19.

**R4-46-207. Renewal of a License or Certificate**

**A.** ~~Not later than 30 days before expiration of an appraiser's license or certificate, an~~ An appraiser seeking to renew ~~the a~~ license or certificate shall submit a completed application accompanied by the required renewal application fees pursuant to A.R.S. § 32-3619 and R4-46-106. Once the application has been filed, fees are nonrefundable, unless A.R.S. § 41-1077 is applicable. To be eligible for renewal of a license or certificate, an applicant shall:

1. Meet the requirements of A.R.S. Title 32, Chapter 36, and these rules;
2. Meet the continuing education requirements in The Real Property Appraiser Qualification Criteria and Interpretations of the Criteria ~~adopted February 16, 1994, effective January 1, 1998, All Interpretations and Supplementary Information as of January 1, 2002, and Appendix I, Criteria Revisions effective January 1, 2003,~~ which is incorporated by reference in R4-46-201(A), except:
  - a. The Board shall not grant credit toward the classroom hour requirement unless the length of the educational offering is at least three hours,

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- b. ~~The American Council on Education's Program on Nonecollegiate Sponsored Instruction (ACE/Credit Program) is not an approved organization for distance education course reviews, and A renewal applicant shall not obtain the 7-hour National USPAP Update Course, or its equivalent, approved through the AQB course approval program, through distance education; and~~
- c. A renewal applicant shall not obtain more than ~~75-percent~~ 75% of required continuing education through distance education; and

3. Pay the renewal and biennial ~~federal~~ national registry fees.

- ~~B.~~ A renewal applicant shall demonstrate completion of a minimum of 14 hours of course work consisting of two 7-hour National USPAP Update Courses, or their equivalent, approved through the AQB Course Approval Program, within four years before expiration of the license or certificate. A course used to satisfy this requirement cannot be used to satisfy the continuing education requirements in subsection (A)(2) unless the course was completed within the two years before the expiration of the license or certificate. Each appraiser shall successfully complete the 7 hour National USPAP Update Course, or its equivalent, approved through the AQB Course Approval Program, at least every two years. A renewal applicant shall not substitute the 15-hour National USPAP Course, or its equivalent, approved through the AQB Course Approval Program, for the 7 hour National USPAP Update Course, or its equivalent, approved through the AQB Course Approval Program.
- B. The same course cannot be repeated for use as continuing education within a renewal period, with the exception of USPAP.
- C. Appraisers may receive up to 50% of continuing education credit for course instruction of Board approved course(s) per renewal period.
- ~~C.D.~~ If the last day for filing falls on a Saturday, Sunday, or legal holiday, an appraiser may file the renewal form on the next business day.
- E. An appraiser who fails to seek renewal within the time periods specified in A.R.S. § 32-3619 shall reapply and meet the requirements OF R4-46-202.

**R4-46-208. Renewal of an Expired License or Certificate Repealed**

- ~~A.~~ An appraiser may renew a license or certificate that has expired within 90 days of expiration. If the last day falls on a Saturday, Sunday, or legal holiday, the appraiser may file a renewal on the next business day.
- ~~B.~~ To apply for renewal of an expired license within the 90-day period, an appraiser shall comply with the requirements of R4-46-207 and submit the delinquent renewal fee prescribed by R4-46-106. Once an application for renewal of an expired license or certificate has been filed, fees are nonrefundable, unless A.R.S. § 41-1077 is applicable.
- ~~C.~~ An appraiser who fails to seek renewal within the time prescribed by this rule shall re-apply and meet the requirements of R4-46-202(B).

**R4-46-209. Replacement License or Certificate**

If an original license or certificate has been lost, damaged, or destroyed, or if the name of a licensee or certificate holder has been legally changed, the ~~Appraiser~~ appraiser may obtain a replacement license or certificate by filing the applicable form and paying a ~~copying~~ the applicable fee to the Board.

**R4-46-209. Replacement License or Certificate**

If an original license or certificate has been lost, damaged, or destroyed, or if the name of a licensee or certificate holder has been legally changed, the ~~Appraiser~~ appraiser may obtain a replacement license or certificate by filing the applicable form and paying a ~~copying~~ the applicable fee to the Board.

**R4-46-210. Change of Address Repealed**

Appraisers and applicants for a license or certificate shall notify the Board in writing of any change in permanent business or residence address within 10 business days of the change.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 46. BOARD OF APPRAISAL

[R06-424]

PREAMBLE

- 1. Sections Affected**

R4-46-104	Repeal
R4-46-105	Repeal
R4-46-301	Amend
R4-46-302	Amend
R4-46-304	Amend
R4-46-305	Amend
R4-46-306	Amend
R4-46-601	Amend
R4-46-602	Amend
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statutes: A.R.S. §§ 32-3605(A), 32-3605(B), 32-3631 and 32-3655  
Implementing statutes: A.R.S. §§ 32-3605(A), 32-3605(B)(10), 32-3605(B)(11), 32-3631 and 32-3655
- 3. A list of all previous notices appearing in the Register addressing the proposed rules:**

Notice of Rulemaking Docket Opening: 12 A.A.R. 4246, November 17, 2006 (*in this issue*)
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Deborah G. Pearson, Executive Director  
Address: 1400 W. Washington, Suite 360  
Phoenix, AZ 85007  
Telephone: (602) 542-1539, Ext. 4  
Fax: (602) 542-1598  
E-mail: deborah.pearson@appraisal.state.az.us
- 5. An explanation of the rules, including the agency's reasons for initiating the rules:**

The amendments propose to clean up duplicative and unnecessary language.
- 6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

None
- 7. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable
- 8. The preliminary summary of the economic, small business and consumer impact:**

The amendments propose to clean up duplicative and unnecessary language. The major economic impact of the rules will be the indirect beneficial effect for the public and regulated community due to specific interpretation of the criteria. The cost, if any, to the regulated community, trainees and course providers will be minimal. There will be no cost to the public. The Board will bear the cost of incorporating and enforcing the rules.
- 9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Deborah G. Pearson, Executive Director  
Address: 1400 W. Washington, Suite 360  
Phoenix, AZ 85007  
Telephone: (602) 542-1539, Ext. 4

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Fax: (602) 542-1598  
E-mail: [deborah.pearson@appraisal.state.az.us](mailto:deborah.pearson@appraisal.state.az.us)

**10. The time, place and nature of the proceedings for the making, amendment or repeal of the rules, or, if no proceeding is scheduled, where, when and how persons may request an oral proceeding on the proposed rules:**

Date: January 18, 2007  
Time: 9:00 a.m.  
Location: 1400 W. Washington  
Basement Conference Room B-2  
Phoenix, Arizona

Nature: The Board will hold an open meeting to hear opinions and suggestions, and to adopt, amend or repeal the rules. The Agenda for this Board meeting will be available to the public 24 hours before the meeting. It may be obtained from the Board's web site at [www.appraisal.state.az.us](http://www.appraisal.state.az.us) under Meetings or by contacting the Board office at (602) 542-1539, Ext. 4. In addition, written comment will be accepted at the Board office, 1400 West Washington, Suite 360, Phoenix, Arizona 85007 between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday through January 17, 2007.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rules or class of rules:**

None

**12. Incorporation by reference and their location in the rules:**

None

**13. The full text of the rules follows:**

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 46. BOARD OF APPRAISAL**

**ARTICLE 1. GENERAL PROVISIONS**

Section  
R4-46-104. ~~Confidential Records~~ Repealed  
R4-46-105. ~~Meetings~~ Repealed

**ARTICLE 2. HEARINGS AND DISCIPLINARY PROCEEDINGS**

Section  
R4-46-301. Complaints; Investigations; Informal Proceedings; Summary Suspensions; Refusal to Appear  
R4-46-302. Formal Hearing Procedures  
R4-46-304. Conviction and Judgment Disclosure  
R4-46-305. Terms and Conditions of Reapplication after Revocation  
R4-46-306. Complaint Information Availability

**ARTICLE 6. PROPERTY TAX AGENTS**

Section  
R4-46-601. Standards of Practice  
R4-46-602. Disciplinary Proceedings; Board Action; Notice Requirements

**ARTICLE 1. GENERAL PROVISIONS**

**R4-46-104. Confidential Records Repealed**

~~Except as otherwise provided by law, the Board shall not disclose:~~

- ~~1. Questions contained in any examination administered by or for the Board or in any examination submitted to the Board for course approval;~~
- ~~2. Questions asked and the answers of individual examinees. However, the Board shall provide the grades of each examinee for public inspection and copying on and after the date set by the Board for the release of examination results;~~
- ~~3. Minutes of the Board's executive sessions; and~~
- ~~4. Appraisal reports or appraisal reviews and supporting documentation deemed confidential under USPAP and adopted~~

by the Board.

**R4-46-105. Meetings Repealed**

~~Pursuant to A.R.S. § 32-3604(F), the Board shall meet at least once each calendar quarter to conduct general business. Special meetings of the Board may be held at any time subject to the call of the chairman or a majority of the Board members.~~

**ARTICLE 3. HEARINGS AND DISCIPLINARY PROCEEDINGS**

**R4-46-301. Complaints; Investigations; Informal Proceedings; Summary Suspensions; Refusal to Appear**

**A. Complaints**

1. The Board shall investigate a written complaint, including an anonymous complaint or a complaint made on the Board's own motion, alleging violations of A.R.S. Title 32, Chapter 36, or this Chapter, if the complaint provides information that meets the minimum criteria. Minimum criteria for a complaint include but are not limited to:
  - a. The name of the respondent against whom allegations are being made;
  - b. The action that is the basis of the complaint;
  - c. The time-frame in which the action occurred;
  - d. Each violation alleged to have been committed by the respondent; and
  - e. A copy of the report, if the complaint includes allegations concerning an appraisal, consulting assignment, or property tax appeal.
2. Upon receipt of a complaint:
  - a. Board staff shall review the complaint and determine, in consultation with Board counsel if necessary, whether the complaint meets jurisdictional criteria and if so, which edition of USPAP is applicable.
  - b. Within 14 days after receipt of a complaint the Board shall notify the respondent, as prescribed in A.R.S. § 41-1092.04, of the complaint and the requirement that the respondent file a written response within 30 days from the date on the notice. The Board shall provide a copy of the complaint with the notice and request that the respondent address the issues in the complaint. In the notice, the Board shall require that the respondent additionally provide all of the following to the Board: the appraisal report, appraisal review, consulting assignment, or property tax appeal at issue; and the workfile.
  - c. If the respondent requests more time to respond, the Board shall grant a single extension of time that does not exceed 30 days.

**B. Initial Review and Investigation**

1. Within 75 days after receipt of a response or expiration of the time for response, the Board shall conduct an initial review of the matter to determine whether further investigation is necessary. If the Board determines further investigation is necessary, the Board may employ an investigator or investigators and shall notify the respondent of the pending investigation.
2. If a respondent's name is placed on a public meeting agenda, the Board shall mail a letter to the respondent not less than seven days before the scheduled meeting, providing the respondent with a copy of the posted notice of the public meeting.
3. If the respondent is present at the initial review, the Board may request that the respondent participate in an informational interview. A respondent may refuse to participate in an informational interview. The Board may use any information presented at the informational interview in other proceedings related to the complaint.
4. At the initial review, the Board shall consider the complaint; any response; the appraisal report, appraisal review, consulting assignment, or property tax appeal; and the workfile. The Board may dismiss the matter, request or subpoena additional information, order a limited or full investigation, or invite the respondent to an informal hearing, based on the information reviewed.
5. Board staff shall assign each investigator according to the investigator's experience, expertise, contract terms, and availability. Board staff shall select an investigator who ~~is not associated~~ does not have a business or familial relationship with the respondent. Each investigative report shall contain the signed certification specified in subsection (B)(6). An investigator's draft report is considered work product and is, therefore, confidential. The Board may ask for clarification or additional information after review of a draft report. Upon acceptance by the Board, an investigative report is considered final. The Board may adopt any or all of the findings in the final report at a public meeting and may consider any additional, relevant information that is discovered before the matter is resolved. The investigative report becomes nonconfidential upon resolution of the complaint involved.
6. The following certification shall be included in every investigative report prepared for the Board and signed by the investigator; I certify that, to the best of my knowledge and belief:
  - a. The statements of fact contained in this report are true and correct.
  - b. The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and they are my personal, impartial and unbiased professional analyses, opinions, conclusions, and recommendations.
  - c. I have no present or prospective interest in the property that is the subject of this investigation, and I have no per-



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- sonal interest with respect to the parties involved in this investigation.
  - d. I have no bias with respect to any property that is the subject of this investigation or to the parties involved in this investigation.
  - e. My engagement for this investigation was not contingent upon developing or reporting any predetermined result or outcome.
  - f. My compensation for this investigation is not contingent upon developing or reporting any predetermined result or outcome, nor have I been instructed as to any predetermined result or outcome by the Board, the Board staff, or other parties.
  - g. I have (or have not) made a personal inspection of the property that is the subject of this investigation.
- C. Settlement. Any time after a complaint has been filed against a respondent, the matter may be resolved by a settlement in which the respondent agrees to accept disciplinary or remedial action by consent ~~in lieu of a disciplinary order~~. If the Board determines that the proposed settlement will adequately protect the public, the Board may ~~accept the offer, and enter into a consent agreement with the respondent, incorporating the proposed settlement into the agreement~~. A statement made for the purpose of settlement is not admissible in a formal hearing.
- D. Informal Hearing; Disciplinary Action
1. If, based on the initial review or its review of the investigative report, the Board determines that the respondent is or may be in violation of the Board's statutes or rules, the Board may request a voluntary informal hearing with the respondent. The Board shall provide the respondent with a copy of any final investigative report in the matter, any supporting documentation, and notice of the date, time, and location of the informal hearing, as prescribed in A.R.S. § 41-1092.04, at least 30 days before the informal hearing. The notice of informal hearing shall include all of the following:
    - a. A statement of the matters asserted and issues involved;
    - b. Any request for additional information needed by the Board to prepare for the hearing;
    - c. An explanation of the respondent's right to appear voluntarily with or without legal counsel; and
    - d. An explanation of the respondent's right to a formal hearing under R4-46-302.
  2. The Board shall provide a copy of the informational material "Introduction to Informal Hearing," which explains the rights and responsibilities of the Board and respondent during the informal hearing. (A copy is also available at the Board office).
  3. The respondent may request and the Board may grant a continuance ~~that does not exceed 30 days~~ upon a showing of good cause. During the informal hearing the Board shall swear witnesses, question the respondent and witnesses, and deliberate. The respondent may respond to the Board's questions, present witnesses, and ask questions of the Board and all witnesses regarding the matter before it.
  4. If the Board finds a violation of the statutes or rules, but the violation is not of sufficient seriousness to merit suspension or revocation, it may take one or more of the following actions:
    - a. Issue a letter of concern;
    - b. Issue a letter of remedial action;
    - c. ~~Issue~~ Offer a letter of due diligence, which may or may not include remedial action;
    - d. ~~Set~~ Offer a consent agreement including an order of discipline that sets a time period and terms of probation sufficient to protect the public welfare and safety and educate the respondent. The Board may require one or more of the following as terms of probation:
      - i. Training or education;
      - ii. Supervision or mentor review;
      - iii. Restriction on the nature and scope of the respondent's practice; or
      - iv. Other reasonable measures designed to protect the public and educate the respondent.
  5. For any Board action other than a letter of concern or a letter of remedial action, the Board shall request that the respondent sign a consent agreement, which may include findings of fact and conclusions of law, depending on the severity of the violation, but shall identify and explain each violation found. If the respondent is aggrieved by the ~~outcome of the informal hearing~~ Board's decision to issue a letter of concern or letter of remedial action, the respondent may request a formal hearing in writing, within 30 days from the date the written notice of the outcome of the informal hearing is received.
  6. In resolving a complaint, the Board shall consider mitigating and aggravating circumstances, including but not limited to:
    - a. Whether a violation is intentional;
    - b. Whether the respondent has a prior disciplinary history;
    - c. The time that has elapsed since the violation, and any prior violation;
    - d. Whether any prior violation is similar to the present violation;
    - e. The complexity of the assignment;
    - f. Whether the assignment was outside the respondent's competence; and
    - g. Whether the respondent has taken courses after a violation to prevent future violations.

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- E. Summary Suspension. If the Board finds that the public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, the Board may order a summary suspension pending proceedings for revocation or other action. If an order of summary suspension is issued, the Board shall serve the respondent with a written notice of summary suspension and formal hearing, listing the charges against the respondent and setting the date for the formal hearing as soon as is reasonably possible, but in no event more than 60 days from service of the written notice.
- F. Refusal to Appear. A respondent may refuse a request to appear at an informal hearing. If the respondent refuses to appear or does not appear, the Board may schedule the matter for a formal hearing.
- G. 12-Month Review. If a matter is not resolved within 12 months from receipt of the response, the Board shall schedule the matter for review at each regularly scheduled Board meeting to determine whether good cause exists to continue the investigation. If, after completing its investigation, the Board finds that further action against the respondent is not warranted, the Board shall dismiss the matter.

**R4-46-302. Formal Hearing Procedures**

- A. The Board shall issue a notice of hearing and formal complaint for formal disciplinary proceedings if:
  - 1. After an informal hearing, the Board determines that suspension or revocation may be warranted;
  - 2. After an informal hearing, the respondent refuses to sign a letter of due diligence or consent agreement offered by the Board;
  - 3. The respondent is aggrieved by the Board's decision in an informal hearing; or
  - 34. After completing its investigation, the Board finds that suspension or revocation may be warranted.
- B. Except as provided in R4-46-301(E), the Board shall provide notice of a formal hearing to a respondent at least 30 days before the date set for the hearing. The Board shall notify the respondent by certified mail or personal service at the respondent's last known address of record. Unless otherwise specified, any notice provided for in these rules is complete upon deposit in the U.S. mail or by service as permitted under A.R.S. § 41-1092.04.
- C. On its own motion or the motion of a party, the Board may hear a case or have the case heard by an administrative law judge. The Board may accept, reject, or modify the administrative law judge's recommended decision as prescribed by A.R.S. § 41-1092.08, and shall issue a final order.
- D. Board Hearings
  - 1. The Board may conduct a hearing without adherence to the rules of evidence used in civil proceedings. The Board shall include the respondent's application and disciplinary records as evidence in the hearing record.
  - 2. In all hearings required or permitted by statute, order of the Board, or these rules, the party seeking relief has the burden of proof and will present evidence first.
  - 3. The Board shall conduct each formal hearing according to A.R.S. Title 41, Chapter 6, Article 10.
- E. ~~Failure to Appear.~~ If a party fails to appear for a formal hearing without good cause, the Board shall act upon the evidence without further notice.
- F. The Board shall make and keep a record of the hearing and, in the case of disciplinary hearings or if requested by a party or ordered by the Board, a transcript shall be prepared and filed with the Board. If the transcript is prepared at the request of a party, the party making the request shall pay for the cost of the transcript, unless the Board, for good cause shown waives assessment of this cost.
- G. A party may request and the Board may grant a continuance of a hearing date or any other deadline imposed by R4-46-302 upon a showing of good cause.

**R4-46-304. Conviction and Judgment Disclosure**

- A. When an ~~Appraiser, Property Tax Agent, or Course Provider~~ appraiser or property tax agent is convicted of any act which is or would be punishable as a felony, crime ~~involving moral turpitude in this state~~, or any crime which is substantially related to the respective qualifications, functions, and duties of an ~~Appraiser, Property Tax Agent, or Course Provider~~ appraiser or property tax agent, the convicted person shall notify the Board within 20 days of entry of a plea of guilty or conviction.
- B. When a civil judgment based on fraud, misrepresentation, or deceit in the making of any appraisal ~~or mass appraisal~~ is entered against an ~~Appraiser, Property Tax Agent, or Course Provider~~ appraiser or property tax agent, the person against whom the ~~judgment~~ judgment entered shall notify the board within 20 days of entry of ~~judgment~~ judgment.

**R4-46-305. Terms And Conditions Of Reapplication after Revocation**

- A. An applicant who ~~re-applies~~ reapplies after revocation of a license, certificate, or course approval, shall submit an application for license, certificate, or course approval consistent with these rules. The applicant shall attach substantial evidence to the application that the issuance of a license, certificate, or course approval will no longer constitute a threat to the public welfare and safety.
- B. The Board shall make a determination of each application that is consistent with the public safety and welfare.

**R4-46-306. Complaint Information Availability**

- A. Every six months, the Board shall generate a report for publication on the Board's web site or in a newsletter that indicates

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for that period the number of:

1. Complaints received,
2. Complaints dismissed,
3. Complaints referred for investigation, and
4. Complaints referred for informal or formal hearing.

- B. In preparing the report, the Board shall include the severity level of violations ~~found; the suggested complaint resolution~~ according with reference to the Board Complaint Resolution Chart (a copy is available at the Board office); the actual complaint resolution implemented by the Board; and any other information that the Board deems useful to appraisers, property tax agents, and the public.

ARTICLE 6. PROPERTY TAX AGENTS

**R4-46-601. Standards of Practice**

The Board may revoke or suspend an agent's registration or otherwise discipline a ~~Property Tax Agent~~ property tax agent to the extent permitted by A.R.S. § 32-3654 for any of the following acts or omissions:

1. Engaging in an activity that leads to a conviction for a crime involving the tax profession;
2. Operating beyond the boundaries of an agreed relationship with an employer or a client;
3. Inferring or implying representation of a person or firm that the agent does not represent, or filing a document on behalf of a taxpayer without specific authorization of the taxpayer;
4. Violating the confidential nature of the ~~Property Tax Agent-client relationship~~ property tax agent-client relationship, except as required by law;
5. Inappropriately offering or accepting anything of value with the intent of inducing or in return for a specific action;
6. Assigning, accepting, or performing a tax assignment that is contingent upon producing a predetermined analysis or conclusion;
7. Issuing an appraisal analysis or opinion, in the performance of a tax assignment, that fails to disclose bias or the accommodation of a personal interest;
8. Willfully furnishing inaccurate, deceitful, or misleading information, or willfully concealing material information in the performance of a tax assignment;
9. Preparing or using, in any manner, a resume or statement of professional qualifications that is misleading or false;
10. Promoting a tax agent practice and soliciting assignments by using misleading or false advertising;
11. Soliciting a tax assignment by assuring a specific result or by stating a conclusion regarding that assignment without prior analysis of the facts;
12. Performing an appraisal as defined by A.R.S. § 32-3601 unless licensed or certified by the Board as an appraiser.

**R4-46-602. Disciplinary Proceedings; Board Action; Notice Requirements**

The Board shall process all hearings and disciplinary matters involving ~~Property Tax Agents~~ property tax agents in a manner consistent with the formal hearing procedures prescribed by Article 3 and consistent with A.R.S. § 32-3654.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 46. BOARD OF APPRAISAL

[R06-428]

PREAMBLE

- |                                    |                                 |
|------------------------------------|---------------------------------|
| <b><u>1. Sections Affected</u></b> | <b><u>Rulemaking Action</u></b> |
| R4-46-501                          | Amend                           |
| R4-46-503                          | Amend                           |
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statutes: A.R.S. §§ 32-3605(A), 32-3605(B), 32-3625  
Implementing statutes: A.R.S. §§ 32-3605(A), 32-3605(B)(2), 32-3605(B)(3), 32-3605(B)(4), 32-3605(B)(8)
- 3. A list of all previous notices appearing in the Register addressing the proposed rules:**  
Notice of Rulemaking Docket Opening: 12 A.A.R. 4247, November 17, 2006 (*in this issue*)
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Deborah G. Pearson, Executive Director

Notices of Proposed Rulemaking

Address: 1400 W. Washington, Suite 360  
Phoenix, AZ 85007

Telephone: (602) 542-1539, Ext. 4

Fax: (602) 542-1598

E-mail: deborah.pearson@appraisal.state.az.us

**5. An explanation of the rules, including the agency's reasons for initiating the rules:**

The amendments are to comply with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, which requires state licensing boards to recognize and ensure that state licensed and certified appraisers meet the minimum criteria issued by the Appraiser Qualifications Board of The Appraisal Foundation, and A.R.S. §§ 32-3605(B)(2) and A.R.S. §§ 32-3605(B)(3), which require the Board to adopt criteria for licensing and certification of appraisers that at a minimum are equal to the minimum criteria for licensing adopted by the Appraiser Qualifications Board, which includes course approval. The Board is proposing amendments to define and incorporate by reference the minimum criteria for qualifying and continuing education courses established by either *The Real Property Appraiser Qualification Criteria and Interpretations of the Criteria adopted February 16, 1994 effective January 1, 1998, All Interpretations and Supplementary Information as of January 1, 2001, and Appendix I, Criteria Revisions effective January 1, 2003* ("1998 Criteria") or *The Real Property Appraiser Qualification Criteria adopted January 1, 2003, All Interpretations and Supplementary Information as of November 1, 2005, and Appendix, Real Property Qualifications Effective January 1, 2008* ("2008 Criteria") based on when the education component is completed. The Board proposes to establish more stringent criteria for approval of qualifying and continuing education courses than the 1998 Criteria and the 2008 Criteria by providing that the 15-hour national USPAP course or its approved equivalent shall not be in the form of distance education. The amendments establish the procedure for tracking courses and provide parameters for advertising by course providers. The amendments define a course provider. The amendments provide instructor qualifications and provide that instructors must be approved by the Board. The amendments provide for an effective date of approval of courses. The amendments specify the required documentation to accompany an application. The amendments specify the requirements for course approval, including required core curriculum, module subtopic and number of hours. The amendments provide parameters for course examinations. The amendments provide parameters for prerequisite courses. The amendments provide parameters for student attendance. The amendments provide parameters for the issuance of a course completion certificate. The amendments provide for Board audit of courses. The amendments provide for renewal of the course approval if no substantive changes have been made to the course outline and materials. The amendments provide for new course approval for courses that have substantive changes to the outline and course material. The amendments provide that a course at an Arizona community college, college or university need not be approved if such course is substantially the same as required by the 1998 Criteria or the 2008 Criteria and that the license or certificate applicant must submit documentation prepared by the course provider identifying the required core curriculum, module subtopic and number of hours. The amendments provide for the course approval of substantially the same courses approved by other states, except distance education taught before May 3, 2005. The amendments propose to clean up duplicative and unnecessary language.

**6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

None

**7. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business and consumer impact:**

The rules are being amended to incorporate by reference the minimum criteria for the course approval established by either *The Real Property Appraiser Qualification Criteria and Interpretations of the Criteria adopted February 16, 1994 effective January 1, 1998, All Interpretations and Supplementary Information as of January 1, 2001, and Appendix I, Criteria Revisions effective January 1, 2003* ("1998 Criteria") or *The Real Property Appraiser Qualification Criteria adopted January 1, 2003, All Interpretations and Supplementary Information as of November 1, 2005, and Appendix, Real Property Qualifications Effective January 1, 2008* ("2008 Criteria") based on when an education component is completed. The Board proposes to establish more stringent criteria for approval of qualifying and continuing education courses than the 1998 Criteria and the 2008 Criteria by providing that the 15-hours National USPAP course or its approved equivalent shall not be in the form of distance education. The amendments establish the procedure for tracking courses and provide parameters for advertising by course providers. The amendments define a course provider. The amendments provide instructor qualifications and provide that instructors must be approved by the Board. The amendments provide for an effective date of approval of courses. The amendments specify the required documentation to accompany an application. The amendments specify the requirements for course approval, including required core curriculum, module subtopic and number of hours. The amendments provide parameters for course examinations. The amendments provide parameters for prerequisite courses. The amendments

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provide parameters for student attendance. The amendments provide parameters for the issuance of a course completion certificate. The amendments provide for Board audit of courses. The amendments provide for renewal of the course approval if no substantive changes have been made to the course outline and materials. The amendments provide for new course approval for courses that have substantive changes to the outline and course material. The amendments provide that a course at an Arizona community college, college or university need not be approved if such course is substantially the same as required by the 1998 Criteria or the 2008 Criteria and that the license or certificate applicant must submit documentation prepared by the course provider identifying the required core curriculum, module subtopic and number of hours. The amendments provide for the course approval of substantially the same courses approved by other states, except distance education taught before May 3, 2005. The amendments propose to clean up duplicative and unnecessary language. The major economic impact of the rules will be the indirect beneficial effect for the public and regulated community due to specific interpretation of the criteria. The cost, if any, to the regulated community, trainees and course providers will be minimal. There will be no cost to the public. The Board will bear the cost of incorporating and enforcing the rules.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Deborah G. Pearson, Executive Director  
Address: 1400 W. Washington, Suite 360  
Phoenix, AZ 85007  
Telephone: (602) 542-1539, Ext. 4  
Fax: (602) 542-1598  
E-mail: deborah.pearson@appraisal.state.az.us

**10. The time, place and nature of the proceedings for the making, amendment or repeal of the rules, or, if no proceeding is scheduled, where, when and how persons may request an oral proceeding on the proposed rules:**

Date: January 18, 2007  
Time: 9:00 a.m.  
Location: 1400 W. Washington  
Basement Conference Room B-2  
Phoenix, AZ

Nature: The Board will hold an open meeting to hear opinions and suggestions, and to adopt, amend or repeal the rules. The Agenda for this Board meeting will be available to the public 24 hours before the meeting. It may be obtained from the Board's web site at [www.appraisal.state.az.us](http://www.appraisal.state.az.us) under Meetings or by contacting the Board office at (602) 542-1539, Extension 4. In addition, written comment will be accepted at the Board office, 1400 West Washington, Suite 360, Phoenix, Arizona 85007 between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday through January 17, 2007.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rules or class of rules:**

None

**12. Incorporation by reference and their location in the rules:**

*The Real Property Appraiser Qualification Criteria and Interpretations of the Criteria adopted February 16, 1994, effective January 1, 1998, All Interpretations and Supplementary Information as of January 1, 2002, and Appendix I, Criteria Revisions effective January 1, 2003, and ("1998 Criteria") and The Real Property Appraiser Qualification Criteria adopted January 1, 2003, All Interpretations and Supplementary Information as of November 1, 2005, and Appendix, Real Property Qualifications Effective January 1, 2008 ("2008 Criteria")* adopted by the Appraiser Qualifications Board (AQB). The location in the rules is R4-46-503.

**13. The full text of the rules follows:**

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 46. BOARD OF APPRAISAL**

**ARTICLE 5. COURSE APPROVAL**

Section  
R4-46-501. Course Approval  
R4-46-503. Hearing on Denial of Course Approval

ARTICLE 5. COURSE APPROVAL

**R4-46-501. Course Approval**

- A.** ~~A Course Provider seeking course approval shall apply to the Board on the applicable form and pay the appropriate fee. A course shall be approved under these rules as either qualifying or continuing education. In order to be approved as qualifying or continuing education, the course must be found to satisfy all the respective criteria set forth in the real property appraiser qualification criteria and interpretations of the criteria incorporated by reference in R4-46-201(A), except:~~
- ~~1. The 15-hour National USPAP Course or its equivalent approved through the AQB Course Approval Program shall not be in the form of distance education;~~
  - ~~2. Only continuing education courses of at least three hours shall be considered for approval.~~
- B.** ~~Each approved course shall be assigned an index number and shall be assigned a maximum number of hours of instruction (including examination time if applicable).~~
- C.** ~~Upon receipt of course approval, the course provider may represent in any advertising or other materials that the course is a Board approved course, provided that the number of hours approved by the Board is also clearly indicated when the number of credit hours approved is less than the actual number of scheduled hours.~~
- D.** ~~Any school, organization, person or other entity that owns the proprietary rights to a course is eligible to apply for course approval as a course provider. All applications for course approval shall be submitted by a course provider. For the purposes of these rules, the following are considered to be a course provider:~~
- ~~1. An entity that owns a course and that conducts the course directly or through affiliated entities.~~
  - ~~2. An affiliated entity of a course provider having Board approval where such affiliated entity conducts the same course.~~
  - ~~3. An entity that has purchased or otherwise lawfully acquired from the course provider of a Board approved course, the course materials for such course and that has the right to independently conduct a course using such acquired course materials.~~
- E.** ~~Course approval granted to a course provider shall apply to any affiliated entity subject to the following conditions:~~
- ~~1. The course provider required the affiliated entity to conduct the course:~~
    - ~~a. Utilizing the course provider's course materials (including textbook and examinations, if any);~~
    - ~~b. Allowing the same number of approved hours as the course provider;~~
    - ~~c. The instructor is approved by the Board;~~
    - ~~d. In accordance with the course provider's policies relating to student attendance, course scheduling and course prerequisites (if applicable).~~
  - ~~2. The course provider assumes full responsibility in the event the affiliated entity violates any provisions of these rules.~~
- F.** ~~Course approval commences on the date initial approval is granted by the Board. Course approval by the Board shall not be granted for courses which have been offered by the course provider prior to the Board's review of the course approval application.~~
- G.** ~~A course provider seeking course approval shall apply to the Board on the applicable form and pay the appropriate fee. Once the application has been filed, fees are nonrefundable. An application must be complete before it will be placed on an agenda for approval.~~
- H.** ~~A course provider shall not misrepresent Board approval status in advertising.~~
- B.** ~~The following requirements apply to courses submitted for approval:~~
- ~~1. The Course Provider shall follow education standards set forth in the Appraiser Qualification Criteria.~~
  - ~~2. The Course Provider shall submit with the application an outline, and a text or other written materials. the course provider shall furnish the Board with the outline, text, or other written material at the time of application. lack of documentation may result in the delay or denial of course approval; In order to be approved, the course must be found to satisfy the following requirements:~~
- ~~1. Course description: the course materials or syllabus must include a course description which clearly describes the content of the course.~~
  - ~~2. Summary outline: the course materials or syllabus shall include a summary outline of major topics and the number of classroom hours devoted to each major topic.~~
  - ~~3. Learning objectives: the course materials or syllabus shall include specific learning objectives which:~~
    - ~~a. Clearly state the specific knowledge and/or skills students are expected to acquire by completing the course;~~
    - ~~b. Are consistent with the course description;~~
    - ~~c. Are consistent with the textbook and/or other instructional materials;~~
    - ~~d. Are reasonably achievable within the number of classroom hours allotted for the course;~~
    - ~~e. For qualifying education courses, shall clearly identify the required core curriculum, the module subtopic, and the number of course hours; and~~
    - ~~f. For continuing education courses, shall clearly identify the appraisal topic and the number of course hours.~~
  - ~~4. Instructional materials: instructional materials to be used by students in the course shall:~~
    - ~~a. Cover the subject matter in sufficient depth to achieve the stated course learning objectives;~~
    - ~~b. Provide appropriately balanced coverage of the subject matter in view of the stated course learning objectives;~~

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- c. Reflect current knowledge and practice;
  - d. Contain no significant errors;
  - e. Reflect correct grammatical usage and spelling;
  - f. Effectively communicate and explain the information presented;
  - g. Be suitable in layout and format; and
  - h. Be suitably bound/packaged and be produced in a quality manner.
5. Examinations for qualifying education: course examinations shall consist either of a series of examinations or a comprehensive final examination or both. The course examination(s) shall comply with the following requirements:
- a. Contain a sufficient number of questions to adequately test the subject matter covered in the course;
  - b. The amount of time devoted to the examination(s) is appropriate for the course;
  - c. The examination questions, individually and collectively, test at a difficulty level appropriate to measure student achievement of the stated course learning objectives;
  - d. The subject matter tested by examination questions is adequately addressed in the course instructional materials;
  - e. The examination questions are written in a clear and unambiguous manner; and
  - f. The examination questions are accurate and the intended correct answer is clearly the best answer choice.
6. Prerequisites: the course provider must have established appropriate prerequisites for any course other than an introductory course on basic real estate appraisal principles and practices or a course on appraisal standards and ethics.
7. Instructor qualifications: an instructor must be approved by the Board to teach a specific Board-approved course. An instructor must meet one or more of the following qualifications:
- a. A baccalaureate degree in any field and three years of experience directly related to the subject matter to be taught; or
  - b. A masters degree in any field and two years of experience directly related to the subject matter to be taught; or
  - c. A baccalaureate degree in a field that is directly related to the subject matter to be taught and one year of experience directly related to the subject matter to be taught; or
  - d. An associate degree in a field that is directly related to the subject matter to be taught and three years of experience directly related to the subject matter to be taught; or
  - e. A masters or higher degree in a field that is directly related to the subject matter to be taught; or
  - f. Five years of real estate appraisal teaching experience directly related to the subject matter to be taught; or
  - g. Seven years of real estate appraisal experience directly related to the subject matter to be taught.
  - h. The national USPAP courses must be taught by an AQB certified USPAP instructor and equivalent USPAP courses must be taught by an instructor approved by the AQB.
8. Current classroom offering: conduct the course in a setting physically suitable to the educational activity of the course. Courses presented by distance education must comply with the criteria adopted in these rules;
9. Attendance policy: the course provider must have a written attendance policy that requires student attendance to be verified. Policy must:
- a. Stipulate that the student must be present for the entire course;
  - b. Include on the attendance records form the name of the instructor(s);
  - c. Provide that nonmembers of the course provider's association or organization may apply for the course without membership in the association or organization;
  - d. Provide for retention of attendance records for a minimum of five years.
10. Course scheduling policy: the course provider shall have an established policy on course scheduling that provides a maximum of nine classroom hours of instruction in any given day and appropriate breaks during each class session.
11. Course completion certificate policy: the course provider shall have an established policy assuring prompt issuance of signed course completion certificates to attendees which shall include all information required on the form of certification provided by the Board.
12. Audit policy: the course provider shall permit the executive director or the executive director's representative to audit the course at no cost to the Board in order to evaluate the instruction. The course provider shall permit the executive director or the executive director's representative to review records appropriate to selected course offerings.
13. Instructor change: if a course provider wishes to use an instructor other than the instructor approved by the Board as part of the initial course approval, the course provider must apply to the Board for approval of any new or substitute instructor and pay the applicable fee. Any new or substitute instructor must meet the instructor qualifications set out in this Section.
3. If a course is required for a license or certificate, the Course Provider shall give a comprehensive examination pertinent to the topics addressed in the course.
4. The Course Provider shall conduct the course in a setting physically suitable to the educational activity of the program; and
5. The Course Provider shall submit proof of compliance with the following standards. The Course Provider shall:
- a. Apply the Appraiser Qualification Criteria set forth in subsection (B)(1);
  - b. Provide a copy of an attendance certificate to the student after completion of the course, indicating the name of

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the Course Provider, the name of the student, the title of the course, the number of classroom hours completed in the course, the dates the course was taken, and whether the students successfully completed any final examination;

- e. ~~Maintain a record of registration, attendance, and examination for each student, for six years following the student's attendance in the course, and provide a copy of the record at the request of the Board or the student;~~
- d. ~~Deny course credit to any student who does not meet requirements of the Appraisal Qualification Board;~~
- e. ~~Use instructors with one or more of the following qualifications:~~
  - i. ~~At least, a bachelor's degree in the field of instruction or in a closely related field of instruction, or~~
  - ii. ~~Five years of work experience in the subject taught, or~~
  - iii. ~~A combination of education and work experience which the Board determines is substantially equivalent to the requirements in subsections (i) and (ii).~~

**~~CJ.~~** ~~Course approval lasts is valid~~ for a period of one year, expiring at the end of the month in which approval was granted, ~~at which time the course provider shall re-apply for course approval of a course previously approved. if there have been no substantive changes to the materials to be addressed in the course, including but not limited to changes in the course outline, text, or other written material. no~~ No later than 30 days prior to the expiration date, a ~~Course Provider~~ course provider may apply for renewal of the course approval ~~review of a course previously approved on the form provided by the Board and pay the appropriate fee. any~~ review of a course previously approved on the form provided by the Board and pay the appropriate fee. ~~If there have been substantive change changes in the materials to be addressed in the classroom course, including but not limited to changes in the course outline, text, or other written material will require immediate re-application and approval by the Board, the course shall be considered as a new course and the course provider shall file an application for course approval meeting all the requirements of this Section and pay the appropriate fee.~~

**~~DK.~~** ~~The Board shall waive the course approval fee for a course offered outside of the state if the course was approved by the appraisal licensing or certifying authority in that state and the Board determines that the course meets the standards for course approval set forth in these rules. A course approved for credit hours at a community college, college or university in this state need not be approved by the Board if said course is substantially the same as required by the criteria. The applicant for licensure, certification or renewal shall submit documentation prepared by the course provider identifying the required core curriculum, the module subtopic and the number of course hours for qualifying education or the appraisal topic and the number of course hours for continuing education.~~

**~~L.~~** If a course has been approved by the licensure/certification Board of another state and the course is substantially the same as required by the criteria, the Board will accept the course. However, the course shall not be in the form of distance education taught before May 3, 2005. The applicant for licensure, certification or renewal must submit documentation to show approval.

**~~EM.~~** The Board shall investigate and may deny, revoke, or suspend course approval for any of the following acts or omissions:

1. Failure to comply with ~~the education or meet any~~ requirements set forth in this ~~article~~ Section.
2. Failure to ~~operate as indicated in the application for course approval~~ use an instructor approved by the Board as part of the course approval application or otherwise.
3. Failure to instruct in a manner consistent with the outline and materials previously approved by the Board.

**~~FN.~~** If the Board finds that the public welfare or safety requires emergency action and incorporates a finding to that effect in its order, the Board shall order a summary suspension of course approval pending proceedings for revocation or other action. If an order of summary suspension is issued, the Board shall serve the ~~Course Provider~~ course provider with a written notice of summary suspension and formal hearing, listing the charges against the ~~course provider~~ course provider and setting a formal hearing within 30 days.

**R4-46-503. Hearing on Denial of Course Approval**

Any applicant or ~~Course Provider~~ course provider ~~denied course approval or any course provider whose course approval is revoked or suspended~~ may file a written request for a hearing within 30 days after service of the notice of denial. The Board shall process all hearings and disciplinary matters involving course approval in a manner consistent with the formal hearing procedures prescribed in Article 3.



NOTICE OF PROPOSED RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 8. ARIZONA STATE PARKS BOARD

[R06-432]

PREAMBLE

- 1. Sections Affected**

	<u>Rulemaking Action</u>
R12-8-103	Amend
R12-8-107	Amend
R12-8-109	Amend
R12-8-110	Amend
R12-8-126	Amend
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 41-511.05(9)  
Implementing statute: A.R.S. § 41-511.05
- 3. List of all previous notices appearing in the Register addressing the proposed rules:**

Notice of Rulemaking Docket Opening: 12 A.A.R. 4024, October 27, 2006
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Rich Evans  
Address: 1300 W. Washington  
Phoenix, AZ 85007  
Telephone: (602) 542-7151  
Fax: (602) 542-4180  
Email: revans@pr.state.az.us
- 5. An explanation of the rules, including the agency's reasons for initiating the rulemaking:**

The Board is amending the rules to make them more clear, concise, and understandable and consistent with the Board's practice.
- 6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

None
- 7. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable
- 8. The preliminary summary of the economic, small business, and consumer impact:**

The amendments do not change the rules substantively. The only economic impact will be that incurred by the Board to make the amendments.
- 9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Rich Evans  
Address: 1300 W. Washington  
Phoenix, AZ 85007  
Telephone: (602) 542-7151  
Fax: (602) 542-4180  
E-mail: revans@pr.state.az.us
- 10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rules or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:**

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An oral proceeding regarding the proposed rules will be held as follows:

Date: Thursday, January 18, 2007

Time: 9:00 a.m.

Location: State Parks Board  
1300 W. Washington St.  
Phoenix, AZ 85007

The rulemaking record will close at 5:00 p.m. on January 18, 2007.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Under A.R.S. § 41-511.05(9), after the Board makes a rule regarding the protection of, maintaining, or keeping the peace in state parks, the Board is required to submit the rule to the legislature for its approval. The rules in this rulemaking are affected by this requirement.

**12. Incorporations by reference and their location in the rules:**

None

**13. The full text of the rules follows:**

**TITLE 12. NATURAL RESOURCES**

**CHAPTER 8. ARIZONA STATE PARKS BOARD**

**ARTICLE 1. GENERAL PROVISIONS**

Section

- R12-8-103. Vandalism  
R12-8-107. Litter and Waste  
R12-8-109. Fees and Permits  
R12-8-110. Fee Waivers  
R12-8-126. ~~Penalty for Regulation~~ Violation; Classification

**ARTICLE 1. GENERAL PROVISIONS**

**R12-8-103. Vandalism**

~~It is unlawful to~~ Within a state park, a person shall not deface, injure, destroy, remove, or use, without authority, any:

- ~~1. public~~ Public facility or public property;
- ~~2. including all wildlife~~ Wildlife, plants plant, or animals; animal; or
- ~~3. archaeological~~ Archaeological, geological, or historical objects found within a state park object.

**R12-8-107. Litter and Waste**

A. ~~Within a state park, No~~ a person shall not leave or discard any trash, garbage, or human or animal waste in a state park unless the person:

- ~~1. confined~~ Confines the trash, garbage, or human or animal waste in a sanitary manner; and
- ~~2. deposited~~ Deposits the trash, garbage, or human or animal waste in a maintained facility specifically designated to receive it.

B. ~~Within a state park, a person shall not~~ It is unlawful to deposit in a state park any trash, garbage, or human or animal waste collected from a private residence, or commercial business, or other place outside the state park.

**R12-8-109. Fees and Permits**

A. Annual ~~Fee Review~~ fee review. The Board shall annually review and set fees for entrance, camping, and overnight parking at a state park facilities. ~~The fees shall be posted at each state park and printed in appropriate state park literature for public information.~~ Fees The Board shall be based base the fees upon an analysis of the following criteria:

1. Fee and permit charges by of state park agencies of in the 11 western states, and
2. Fee and permit charges of entities with similar facilities within Arizona,
- ~~2-3.~~ Arizona State Parks operational Operational and developmental costs of the Board,
- ~~3-4.~~ Public demand for services, and
- ~~4-5.~~ Impacts Public-use impacts upon park resources.

B. The Board shall ensure that fees for entrance, camping, and overnight parking are posted at each state park and printed in state-park literature intended for public information.

Notices of Proposed Rulemaking

~~B.C.~~ Entrance fees/permits Fee schedule. Entrance, camping, and overnight parking fees for each state park ~~can be found~~ are listed in Exhibit A. A fee will not be charged for private vehicles or individuals requesting a 15 minute or less preview of a recreation park.

~~C.D.~~ Special Use Fees use fees. The Director ~~may shall~~ negotiate a specific fee for a special uses use. ~~The range for noncommercial and commercial uses at state park facilities shall be the fee charged unless if the Executive Director determines that an increase a fee greater than the fee listed in Exhibit A is justified based upon analysis of the following criteria:~~

1. Park Board expenses resulting from the special use,
2. Loss of revenue resulting from the special use,
3. Impacts upon park resources and visitors as a result of the special use, ~~or and~~
4. The goodwill produced ~~by for sponsors of the special use informing or educating the public.~~

~~D.E.~~ Special interpretive Interpretive program fees. ~~A The Director may establish a special interpretive fee for events sponsored by state parks may be assessed or waive the usual state park fees entrance fee during the event may be waived an interpretive program. If assessed, this fee shall be established by the The Executive Director shall determine whether to assess a special fee or waive the usual state park entrance fee for an interpretive program using according to the criteria specified in subsection (C) (D). Special If the Director establishes a special interpretive fees fee for an interpretive program, the Director shall be established ensure that the special fee is posted and printed in state-park literature in advance of the event and posted as stated in this rule interpretive program.~~

E. Commercial Vehicle Access Permit (CVAP) permit. A will be required by any person that enters intends to enter a state park to conduct any portion of a business that is not covered by a concession agreement or special use permit shall obtain either a commercial retail or commercial rental permit from the Board before entering the state park. Permits will be issued either as Rental Businesses or Retail Businesses. A commercial permit authorizes one commercial vehicle carrying no more than four individuals to enter the state park for which the commercial permit is issued.

**R12-8-110. Fee Waivers**

A. The ~~Park Manager~~ Director, or an official designee of the ~~Park Manager~~, is authorized to grant waivers of may waive the entrance fee listed in Exhibit A to educational and handicapped for the following groups, in accordance with the following guidelines: If the Director does not waive the entrance fee, members of the group shall pay the entrance fee listed in Exhibit A:

1. Subject to the discretion of the Park manager, fees for preschools A preschool and accredited or K-12 school groups may be waived. Program fees for large groups that are scheduled for special interpretive programs, ranger-led hikes, or tours of the park will be charged (refer to Exhibit A, 1998 Regular Fee Schedule for specific rates) when a waiver is not granted: group and accompanying chaperons;
2. Professional groups shall be A group of professional individuals participating in a parks and recreation, or historic, and or interpretive seminar, or conference tour; and
3. Handicapped groups shall be A group of individuals with disabilities affiliated with organizations an organization or agencies agency established for their to care for, rehabilitation, training rehabilitate, train, or service serve individuals with disabilities. For the purpose of this rule subsection, handicapped is defined as disability means blind and or visually impaired, deaf and or hard of hearing, mobility impaired, or developmentally disabled impaired.

B. Persons serving in An individual who serves as a volunteer capacity with and has a signed volunteer agreement with the Arizona State Parks Board are is exempt from all the entrance fees specified in Exhibit A.

C. No fees The Board shall be charged not charge a fee on Christmas Day.

D. The Director or the Director's designee may modify any and all rates fee prescribed in under R12-8-109 and R12-8-110 to include discounts, promotional rates, and other modifications if the Director determines that modifying the fee is in the best interest of the state park system.

**R12-8-126. Penalty for Regulation Violation; Classification**

~~A person Under A.R.S. § 41-511.13, an individual who violates a State Parks Board Regulation a provision of this Chapter commits a Class class 2 Misdemeanor misdemeanor. See A.R.S. § 41-511.13.~~